

## **Annex A**

## Background Documents

1. Affidavit of Luke Andrew Raymond Groth, *In the Matter of FTX Digital Markets Ltd.*, 2022/COM/com/00060 (Sup. Ct. Bahamas Jan. 12, 2024).
2. Bankman-Fried (@SBF\_FTX), Twitter, June 27, 2022, Appendix to the Opening Brief in Support of Motion for Partial Summary Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 13-1 at 689.
3. Bankman-Fried (@SBF\_FTX), Twitter, November 7, 2022 (Deleted Tweet).
4. Complaint for Declaratory Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF Nos. 1, 1-1, 1-2.
5. Complaint for Declaratory Judgment and Exhibit A, *Kavuri v. FTX Trading, Ltd.*, No. 24-ap-50012 (Bankr. D. Del. Jan. 31, 2024), ECF Nos. 1, 1-1.
6. Declaration of Edgar W. Mosley in Support of Debtors' Objection to Emergency Motion of the Joint Provisional Liquidators of FTX Digital Markets Ltd. for (i) Relief from Automatic Stay and (ii) to Compel Turnover of Electronic Records, *In re FTX Trading Ltd.*, No. 22-11068 (Bankr. D. Del. June 26, 2023), ECF No. 337.
7. FTX.com Net Deposit and Withdrawal Activity: Select Digital Assets for the Period 1/1/22 – 11/11/22.
8. FTX Digital Markets Limited Safeguarding of Assets & Digital Token Management Policy.
9. FTX Policy: FTX's Key Principles for Ensuring Investor Protections on Digital-Asset Platforms, Mar. 10, 2022, Appendix to the Opening Brief in Support of Motion for Partial Summary Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 13-1 at 637.
10. John J. Ray, III's Testimony before the US House Financial Services Committee, Dec. 13, 2022, Appendix to the Opening Brief in Support of Motion for Partial Summary Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 13-1 at 256.
11. Motion for Partial Summary Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 10.
12. Opening Brief in Support of Motion for Partial Summary Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 11.

13. Proprietary Claims by FTX.com Customers Declaration Submitted by David Quest KC, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 12.
14. Second Interim Report of John J. Ray III to the Independent Directors: The Commingling and Misuse of Customer Deposits at FTX.com, *In re FTX Trading Ltd.*, No. 22-11068 (Bankr. D. Del. June 26, 2023), ECF No. 1704-1.
15. Testimony of Sam Bankman-Fried Co-Founder and CEO of FTX, U.S. Senate Committee on Agriculture, Nutrition and Forestry, Feb. 9, 2022, Appendix to the Opening Brief in Support of Motion for Partial Summary Judgment, *Ad Hoc Committee of Non-US Customers of FTX.com v. FTX Trading Ltd.*, No. 22-ap-50514 (Bankr. D. Del. Dec. 28, 2022), ECF No. 13-1 at 650.

## Authorities

### Cases

1. AA v. Persons Unknown [2019] EWHC 3556 (Comm).
2. Agip (Africa) Ltd v Jackson [1991] Ch 547 (CA).
3. Arnold v. Britton [2015] UKSC 36, [2015] AC 1619.
4. Boscawen v. Bawja [1996] 1 WLR 328.
5. ByBit Fintech Ltd v. Xin [2023] SGHC 199.
6. Charity Commissioners for England and Wales v Framjee [2015] 1 WLR 16.
7. Chartbrook Ltd v. Persimmon Homes Ltd [2009] UKHL 38, [2009] 1 AC 1101.
8. Clayton's Case (1817) 1 Mer 572.
9. D'Aloia v. Persons Unknown [2024] EWHC 2342 (Ch).
10. Danisz v. Persons Unknown [2022] EWHC 280 (QB).
11. Davis v. Hueber (1923) 31 CLR 583 (HCA).
12. Dhingra v. Dhingra [1999] EWCA Civ 1899.
13. DPP v. Briedis [2021] EWHC 3155 (Admin).
14. El Ajou v Dollar Land Holdings [1993] BCLC 735.
15. FHR European Ventures LLP v. Cedar Capital Partners LLC [2015] AC 250 (SC).
16. Foskett v McKeown [2001] 1 AC 102.
17. Hunter v. Moss [1994] 1 WLR 452
18. Investors Compensation Scheme Ltd v. West Bromwich Building Society [1998] 1 WLR 896.

19. James Roscoe (Bolton) Ltd v Winder [1915] 1 Ch 62.
20. Lipkin Gorman v. Karpnale Ltd [1991] 2 AC 548 (HL).
21. Litecoin Foundation Ltd v. Inshallah Ltd [2021] EWHC 1998 (Ch).
22. LMN v. Bitflyer Holdings Inc [2022] EWHC 2954 (Comm).
23. Mercer v. Craven Storage [1994] CLC 328 (HL).
24. Miller v. Race (1758) 1 Burr 452.
25. Milroy v. Lord (1862) 4 De GF & J 264.
26. National Stadium Project (Grenada) Corporation v. NH International (Caribbean) Ltd [2020] UKPC 25.
27. Paul v. Constance [1977] 1 WLR 527.
28. Pearson v. Lehman Brothers [2010] EWHC 2914.
29. Pearson v. Lehman Brothers [2011] EWCA Civ 1544.
30. Piroozzadeh v Persons Unknown [2023] EWHC 1024 (Ch).
31. Quoine Pte Ltd v. B2C2 Ltd [2020] SGCA(I) 02.
32. Rainy Sky SA v. Kookmin Bank [2011] UKSC 50, [2011] 1 WLR 2900.
33. Re CA Pacific Finance Ltd [2000] 1 BCLC 494.
34. Re Gatecoin Ltd (in liq) [2023] HKCFI 914.
35. Re Goldcorp Exchange Ltd [1995] 1 AC 74
36. Re Harvard Securities Ltd [1998] BCC 567.
37. Re Kayford Ltd [1975] 1 WLR 279.
38. Re London Wine Co Ltd [1986] PCC 121.
39. Re Rose [1952] Ch 499.
40. Re Stapylton Fletcher Ltd [1994] 1 WLR 1181 (Ch).
41. Richards v. Delbridge (1874) LR 18 Eq 11.
42. Ruscoe v. Cryptopia Ltd (in liquidation) [2020] NZHC 728.
43. Ruscoe v. Cryptopia [2020] 2 NZLR 809.
44. Russell-Cooke Trust Co v Prentis [2003] 2 All ER 478.
45. Serious Fraud Office v Hotel Portfolio II Ltd [2021] EWHC 1273 (Comm).
46. Shalson v. Russo [2005] Ch 281.

47. Smith v. Torque Group Holdings Ltd., Unreported, 2 July 2021.
48. The Federal Republic of Brazil v Durant International Corporation [2016] AC 297.
49. Tippawan Boonyaem v. Persons Unknown [2023] EWHC 3180 (Comm).
50. Trustee of the Property of FC Jones v Jones [1997] Ch 159.
51. Tulip Trading v. van de Laan [2023] EWCA Civ 83.
52. Wang v. Darby [2021] EWHC 3054 (Comm).
53. Westdeutsche Landesbank v Islington LBC [1996] AC 669.
54. White v Shortall [2006] NSWSC 1379.
55. Wilkinson v. North [2018] 4 WLR 41.
56. Wood v. Capita Insurance Services Ltd [2017] UKSC 24, [2017] 2 WLR 1095.

*U.K. Jurisdiction Taskforce and Law Commission Reports*

1. Final Report of the Law Commission into Digital Assets (June 2023 LawCom 412).
2. Law Commission: Digital Assets as Personal Property: Short Consultation on Draft Clauses (February 2024).
3. Law Commission: Digital Assets as Personal Property: Supplemental Report and Draft Bill (July 2024 LawCom 416).
4. Law Commission Digital Assets Consultation Paper (July 2022 LawCom 256).
5. UK Jurisdiction Taskforce: Legal Statement on Cryptoassets and Smart Contracts (November 2019).

*Treatises*

1. Bridge, Gullifer, McMeel, and Low, *Law of Personal Property* (3<sup>rd</sup> ed, Dec. 2021), Chapter 17.
2. *Hanbury and Martin: Modern Equity* (22<sup>nd</sup> ed, Oct. 2021), Chapter 4.
3. G. Virgo, *The Principles of Equity and Trusts* (5<sup>th</sup> ed, May 2023), Chapter 19.
4. *Lewin on Trusts* (20th ed, Mar. 2020), Chapters 5 and 7.
5. Sir Kim Lewison *The Interpretation of Contracts* (8<sup>th</sup> ed, Dec. 2023), Chapter 3.
6. *Snell's Equity* (34<sup>th</sup> ed, Dec. 2019), Chapters 22 and 24.
7. *Underhill and Hayton Law of Trusts and Trustees* (20<sup>th</sup> ed, Mar. 2022), Chapter 3.

*Articles*

1. Duncan Sheehan, *Digital assets, blockchains and relativity of title* [2024] JBL 78.

2. Hin Liu, *Transferring legal title to a digital asset* [2023] 5 Journal of International Banking and Financial Law.
3. Louise Gullifer, Henry Chong & Hin Liu, *Client-Intermediary Relations in the Crypto-Asset World* (Legal Studies Research Paper Series, Paper 18/2021, March 2021).
4. Robert Stevens, *Crypto is not property* (2023) 139 LQR 615.
5. Roy Goode, *Are Intangible Assets Fungible?*, [2003] LMCLQ 379.

## **Annex B**

THE RT. HON. LORD NEUBERGER OF ABBOTSBURY

David Neuberger read chemistry at Oxford, graduating in 1970. He then spent three years as an investment banker, and then studied to be a barrister, being called to the Bar in 1975. He practised as a barrister in the English and Welsh courts largely in property law, and in 1987 he became a Queen's Counsel. In 1996, he was appointed a High Court Judge, sitting in the Chancery Division in London, and from 2001 he was also Supervisory Chancery Judge for the Midland, Wales and Chester and Western Circuits. In 2004, he was promoted to the Court of Appeal, and made a member of the Privy Council. The following year, he became Judge in charge of IT and modernisation. In 2007 he was appointed a Lord of Appeal in Ordinary (a Law Lord) and was made a member of the House of Lords. He then became Master of the Rolls in 2009. In 2012, he became the President of the United Kingdom Supreme Court, a position from which he retired in September 2017.

In 2006-7, Lord Neuberger chaired an investigation for the Bar Council into widening access to the barristers' profession, which resulted in a report whose recommendations were generally implemented..

Since 2010, Lord Neuberger has been a Non-Permanent Judge of the Hong Kong Court of Final Appeal; in January 2018, he became a Judge of the Singapore International Commercial Court.

Since 2017, Lord Neuberger has been practising as an arbitrator, mediator and legal expert from One Essex Court in the Temple, London.

Lord Neuberger was elected an honorary Fellow of the Royal Society in 2017, and has been an honorary member of the Royal Institution of Chartered Surveyors since 2005. Lord Neuberger is the Chancellor of the University of Law in London, and is President of the British Institute of International and Comparative Law. He chairs the Institute of Family Law Arbitrators and is a trustee of Mental Health Research UK and also of Prisoners Abroad, and Patron of Sapere. Since 2022 he has been President of the Academy of Experts.

His wife worked for many years as a producer of films and programmes for the BBC and now produces TV programmes and writes on a freelance, basis as well as being a governor of Arts University Bournemouth. They have three children, all of whom are solicitors – and are married to solicitors.

## **Annex C**

Cases in which Lord Neuberger of Abbotsbury has testified by deposition

1. Titan Consortium 1 LLC v (1) Teinver Sa, (2) Autobuses Urbanos Del Sur Sa, and (3) Transportes De Cercanías Sa (in the Commercial Court in Madrid, Spain). Evidence as to the enforceability in English law of a litigation funding agreement;
2. OOO "Insurance Company Chubb" v Enka Insaat ve Sanayi AS (in the Arbitrash (Commercial) Court of Moscow City, Russia). Evidence on the effect in English law of an arbitration agreement;
3. Mobile Telecommunications Company Ksc v HRH Prince Hussam Bin Saudi Bin Abdulaziz Al Saud (in the Saudi Arabia Court of Appeal in Riyadh). Evidence as to the meaning and enforceability of an English law arbitration award;
4. Deutsche Bank AG v. Sebastian Holdings, Inc. et al. (in the Superior Court of Connecticut, Docket No. (Xo8) FST-CV13-5014167-S). Evidence on the English law on piercing the corporate veil);
5. Levien and Westhead v Hibu plc et al. (in the United States District Court for the Eastern District of Pennsylvania no. 2:19-cv-03239-MMB). Evidence on the English law of deceit and misrepresentation in a claim against companies and company directors;
6. Jaguar Land Rover Limited v. Bentley Motors Limited, and Bentley Motors, Inc. (in the United States District Court for the Eastern District of Virginia Norfolk Division, Case No. 2:18cv320). Evidence as to the effective assignment of a patent; and
7. Ericsson Inc. and Telefonaktiebolaget LM Ericsson v Apple Inc. (in the United States District Court Eastern District of Texas Civil Action No. 2:21-cv-376) Evidence as to the effect of provisions in a patent licence agreement.

## **Annex D**

1. *Reasonableness and Good Faith in International Arbitration Law*, Emmanuel Gaillard Lecture 31<sup>st</sup> October 2023;
2. *Reflections on Recent Developments in the Law of Contract* Harris Society Lecture, 13 June 2022;
3. *AI and Regulation*, Strathclyde University Centre for Professional Legal Studies Talk. 11 May 2022;
4. *Introductory Talk*, Royal Society, Goodenough College, Jesus College Oxford Colloquium on AI and Regulation, 24 March 2022;
5. *Personal Autonomy – a blessing or a curse? Montgomery v Lanarkshire in context* Medico-Legal Society Annual Lecture 12<sup>th</sup> January 2022;
6. *Sanctions in International Arbitration: Pros, Cons, and Implications*, Singapore Institute of Arbitrators Annual Lecture 2021, 12 October 2021;
7. *John Laws and his Contribution to Public and Administrative Law* Administrative Law Bar Association Annual Lecture July 2020;
8. *Civil Justice 2019 and 2029: No Change Or All Change?* Peter Taylor Memorial Lecture 30<sup>th</sup> April 2019
9. *Judicial impartiality: essential or impossible?* - Hibernian Law Journal – H.L.J. 2018, 17, 139-143;
10. *The role of equivalents in UK patent law* – Dutch Patent Law conference 2018
11. *Commercial Cases in the Supreme Court: Another round in the Case of Certainty & Principle v Fairness & Flexibility* Commercial Bar annual lecture 2018
12. *Twenty Years a Judge: Reflections and Refractions*; The Neill Lecture 2017
13. *The law and medicine - one family's view* – Medico-Legal Journal – Med. Leg. J. 2016, 84(4), 185-190;
14. *The constitutional role of the Supreme Court in the context of devolution in the UK* The Lord Rodger Lecture 2016
15. *The process of judging* University of Surrey 2016
16. *Ethics and Advocacy* Lord Slynn Lecture 2016
17. *Some thoughts on judicial reasoning across the jurisdictions* The Mitchell lecture 2016
18. *The Role of the Judge: Umpire in a Contest, Seeker of the Truth or Something in Between?* Singapore Panel on Judicial Ethics 2016
19. *The Role of the Supreme Court Seven Years On – Lessons Learnt* Bar Council Law Reform Lecture 2016

20. *The Grace of God is in Courtesy* Lecture in memory of John Gilling 2016
21. *UK Supreme Court decisions on private and commercial law: The role of public policy and public interest* Centre for Commercial Law Studies
22. *Reflections on the ICLR top fifteen cases: a talk to commemorate the ICLR's 150th anniversary* - Construction Law Journal – Const. L.J. 2016, 32(2), 149-166;
23. *Science and Law: Contrasts and Cooperation* The Royal Society London 2015
24. *Is nothing secret? Confidentiality, Privacy, Freedom of Information and Whistleblowing in the Internet Age* Singapore Academy of Law Annual Lecture 2015
25. *Magna Carta: The Bible of the English Constitution or a disgrace to the English nation?* Guildford Cathedral 2015
26. *Magna Carta and the Holy Grail* Lincoln's Inn Magna Carta Lecture 2015
27. *Fairness in the Courts – the best we can do* Criminal Justice Alliance 2015
28. *Keynote speech* – Arbitration 2015, 81(4), 427-433;
29. *Arbitration and the rule of law* – Arbitration 2015, 81(3), 276-287;
30. *Property law in a changing world* – Estates Gazette – E.G. 2015, 1527, 78-80;
31. 'Judge not, that ye be not judged': judging judicial decision-making. F A Mann Lecture 2015
32. *Framing a new procedural culture* – Civil Justice Quarterly Availability – C.J.Q. 2015, 34(3), 237-243;
33. *Trade Mark Dilution and Parody* Fox Intellectual Property Lecture, Toronto 2015
34. *The British and Europe* Freshfields Annual Lecture 2015
35. *Intellectual property in the United Kingdom and Europe* – European Intellectual Property Review – E.I.P.R. 2014, 36(11), 693-699;
36. *Some reflections on the legal profession* – Bar Review 2014, 19(4), 80-86;
37. *Expert Witnesses* Bond Solon Expert Witness Conference 2014
38. *The Judicial Committee of the Privy Council in the 21st century* – Cambridge Journal of International and Comparative Law – C.J.I.C.L. 2014, 3(1), 30-45;
39. *Tweaking the Curial Veil* Blackstone Lecture 2014
40. *The UK Constitutional Settlement and the Role of the UK Supreme Court* Legal Wales Conference 2014
41. *The Supreme Court and the Rule of Law* Conkerton Lecture Liverpool 2014
42. *The Remedial Constructive Trust - Fact or Fiction* Banking Services and Finance Law Association Conference, Queenstown, New Zealand 2014
43. *The role of judges in human rights jurisprudence: a comparison of the Australian and UK experience* Supreme Court of Victoria, Australia

44. *Equity - The soul and spirit of all law or a roguish thing?* Lehane Lecture, Supreme Court of New South Wales, 2014
45. *Sausages and the Judicial Process: The Limits of Transparency* Annual Conference of the Supreme Court of New South Wales 2014,
46. *Intellectual Property in the UK and Europe* Burrell Lecture for the Competition Law Association 2014
47. *Rainbow Lecture on Diversity* House of Commons 2014
48. *Justice and Security* Northern Ireland Judicial Studies Board 2014